

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 02-14-65336

HUD# 07-14-0238-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENT

JERRY'S HOMES, INC.

10430 New York Avenue, Suite C

Urbandale, Iowa 50322-3773

COMPLAINANT

ANGELA WILLIAMS

Commissioner, Iowa Civil Rights Commission

400 East 14th Street

Des Moines, Iowa 50319

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street

Des Moines, Iowa 50319

Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). Complainant alleged Respondents designed and constructed covered multifamily dwelling units in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated the "usable doors" and the "usable kitchens and bathrooms" requirements (referenced respectively as Requirements 3 and 7) in the ICRA and FHA. In Unit 13, Complainant specifically alleged (1) the clear opening width of the patio sliding-glass door was measured at 31 inches, which is less than the minimum "nominal" 32 inches required; and (2) the width clearance between the kitchen island and opposing counters was measured at 34 inches, which is less than the minimum of 40 inches required.

Description of the Subject Property

The subject property, Adam Ridge Condos, is comprised of 14 apartment buildings and common areas, located in Johnston, Iowa. The following table gives the address for each of the five buildings with a first Certificate of Occupancy issued in 2013 or later, as well as the date of each of those Certificates of Occupancy.

Address Certificate of Occupancy

6005 Bremen Court November 20, 2013

6065 Bremen Court October 11, 2013

6010 Westfalen Court August 28, 2013

6035 Westfalen Court August 28, 2013

6070 Westfalen Court August 28, 2013

Each of the five buildings has eight ground and eight second-floor units. The property does not have an elevator, so only the 40 ground-floor units are covered multifamily dwelling units and must, therefore, be designed and built in compliance with the ICRA and FHA.

The scope of this agreement is limited to the five buildings listed in the table above. However, if the deficiencies found in the these five buildings and common areas also exist in the other nine buildings and common areas, and those deficiencies are not appropriately addressed, then Respondent Jerry's Homes [henceforth referred to as "Jerry's Homes"] may face future enforcement actions by either the United States Department of Housing and Urban Development (HUD) or the United States Department of Justice (DOJ), as these federal agencies have the authority to enforce the FHA for any covered multifamily dwelling built for first occupancy after March 13, 1991.

Respondent's Defenses:

Jerry's Homes acknowledge the alleged deficiencies as reported in the complaint. When asked in the ICRC questionnaire what was true or false about the allegations, Jerry's Homes responded, "Statements appear to be true."

Report of Preliminary Findings:

ICRC Investigators inspected three units in the building at 6035 Westfalen Court because, as reported by Jerry's Homes and based on the blueprints, this building was designed and built in the same way as the other four buildings. All units in all five buildings were designed and built according to two specific floor plans. See Appendix B.

After conducting an onsite inspection of the common areas and three of the ground-floor units – Unit 9 [three bedrooms and two bathrooms], Unit 13 [two bedrooms and two bathrooms], and Unit 14[two bedrooms and two bathrooms] – ICRC Investigators found and reported the following deficiencies:

1) Eight slope measurements were taken at the subject property – six at sidewalks and two at ramps. The running-slope measurements were all greater than 5% and the cross-slope measurements exceeded the 2% maximum allowed by Section 4.3.7 of ANSI 1986 [Requirement 2]. The table below shows the slope type, location, and measurement.

TYPE	LOCATION	MEASUREMENT
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RS	Entranceway north of dumpster	8.6%
CS	Southeast of dumpster	7.1%
RS	South of dumpster	5.3%
CS	South of dumpster	2.9%
RS	South of dumpster	5.7%
CS	West of northwest walkway	2.6%
CS	Access aisle west of northwest walkway	3.4%
RS	Northwest walkway	5.6%

2) The sidewalk adjacent to the southeast of the dumpster, which is designated for use by tenants, includes a section near a downspout with a 28-inch width. The sidewalk path from the downspout to the dumpster has a 33.84-inch width, which is narrower than the 36-inch minimum width for an accessible path, as required in Section 4.3.3 of ANSI 1986 [Requirement 2].

3) No detectable warnings were observed in the sidewalk sections adjacent to the vehicular ways, which include the eastern edge of the sidewalk section adjacent to the southeast of the dumpster area and the curb ramp adjacent to the west side of the northwest walkway. Detectable warnings are required by Sections 4.7.7 and 4.27.2 of ANSI 1986 for the safety of visually-impaired persons [Requirement 2].

4) The most direct path connecting the northwest walkway to the mailbox kiosk, located to the northwest of the building, lacks a ramp, as required by Section 4.7.1 of ANSI 1986 [Requirement 2].

5) None of the 16 parking spaces or access aisles had markings, which prevented an assessment of whether the parking spaces reserved for persons with disabilities met the minimum width requirements, as stated in Section 4.6.2 of ANSI 1986 [Requirement 2].

6) The height for the keyholes in the top row of mailboxes, which includes mailboxes for Units 1 and 9, ground-floor units, was measured at 57.5 inches. There is enough clear floor space in front of the mailboxes for tenants in a wheelchair to make a parallel approach, which allows for a maximum reach

height requirement of 54 inches. Therefore, the mailboxes with a height greater than 54 inches are unusable, according to the maximum reach parameters of Section 4.2.6 of ANSI 1986 [Requirement 2].

7) The front doors to Units 9 and 14 have twist-style knobs as the door-opening hardware. Such knobs are not allowed by Section 4.13.9 of ANSI 1986 [Requirement 3].

8) The threshold height from the unit's interior through the sliding glass door onto the concrete porch, the secondary entrance for Unit 9, is 5 inches. For Unit 13, the threshold height to the porch is 5.5 inches. The threshold heights in these two units exceed the 4-inch maximum, as required by Section 3.10 of the Fair Housing Act Design Manual (FHADM) [Requirement 3].

9) The height for the thermostat control was measured at 57.5 inches for Unit 9 and 59.25 inches for Unit 14. The measured heights for these controls exceed the maximum height of 48 inches for either a forward approach or a parallel approach over an obstruction, as required by Section 4.2.5 of ANSI 1986 and Section 5.5 of the FHADM [Requirement 5].

10) The electrical outlets located above the kitchen counter surface and below the cupboards in Unit 9 were measured horizontally from the corner at 15 inches and 25 inches, while the ones in Unit 14 were 17 inches and 20.75 inches. The horizontal distance from the corner for these outlets is less than the 36 -inch minimum allowed by Section 5.8 of the FHADM [Requirement 5].

11) The width for the path around the kitchen island in Unit 14 was measured at 36 inches, which is less than 40-inch minimum width required by Section 4.32.5.1 of ANSI 1986 [Requirement 7].

12) The distance from the midline of the sink to the adjoining wall in the second bathroom for Unit 14 was measured at 15 inches, which is less than the minimum of 24 inches needed for a parallel approach, as required by Section 4.32.4.3 of ANSI 1986 for bathrooms without removable cabinets [Requirement 7].

13) The height of the towel bars in the bathrooms of all three inspected units was measured at no less than 59 inches, including those which were located directly above the toilet. The maximum allowed height for a tenant reaching over an obstruction is 46 inches, or 48 inches without the obstruction, as outlined in Section 4.2 of ANSI 1986 [Requirement 7].

Jerry's Homes' Response to Report of Preliminary Findings:

Jerry's Homes submitted the following responses to the reported deficiencies:

1) Jerry's Homes will remove and redo the entranceway north of the dumpster so that the running slope is no greater than 5% and the cross slope no greater than 2%. The cross slope to the access aisle west of the northwest walkway will be brought under 2% by relocating the access aisle, if necessary. Handrails will be installed for the sections of the northwest walkway with a running slope between 5% and 8.33%.

In response to the report of the cross-slope deficiency at the sidewalk section west of the northwest walkway, Jerry's Homes stated the slope measured-value of 2.6% is the result of that sidewalk rising due to thermal frost, which occurred during the previous winter.

2) No changes will be made to the sidewalk south of the dumpster because the path approaching from the north will be made accessible after the running and cross slopes are corrected.

3) Detectable warning pavers will be installed at all accessible ramp locations.

4) A new accessible ramp will be installed at the sidewalk curb to the southeast of the mailbox kiosk.

5) The absence of discernible parking lines is due to the unusually harsh winter and sand used for traction at the parking lot. Therefore, Jerry's Homes maintains the absence of parking lines is a maintenance issue, not a construction deficiency; but if the access aisle needs to be moved, then those lines will be repainted.

6) The Postmaster at the United States Postal Service (USPS) in Johnston, Iowa denied Jerry's Homes' request to renumber the mailboxes.

- 7) The front door twist-style knobs will be replaced with handle-style knobs.
- 8) Concrete patios will be replaced or additional concrete will be poured to decrease the exterior threshold height at the porch entrance to the units to a height less than the 4-inch maximum.
- 9) Thermostats currently at a height greater than the maximum allowed will be lowered to bring them into compliance.
- 10) Additional electrical outlets currently exist in the kitchen, which are at a horizontal distance greater than 36 inches from the corner. The switch that controls the light above the sink and the garbage disposal is currently at a horizontal distance of less than 36 inches, and will be moved to a distance of 36 inches or greater.
- 11) Kitchen islands will be moved to increase the distance between the island and opposing counters to a width of 40 inches or greater.
- 12) The second bathroom, which Jerry's Homes refers to as "Bath 2" in the two-bedroom plan, will be modified so that the cabinet under the bathroom sink is removable and the area underneath the cabinet is finished to bring bathroom into compliance.
- 13) Towel-bar heights will be lowered to a maximum height of 46 inches at locations above the toilets and a maximum height of 48 inches at the other locations without obstructions.

Jerry's Homes stated its goal is to complete all of these modifications and retrofits within 180 days from the date of the closing letter from ICRC.

Assessment of Deficiencies:

ICRC acknowledges the IBC 2006 is one of the safe harbors accepted by HUD for meeting the accessible design and construction requirements of the FHA, and that it integrates and applies ANSI 2003, which is another one of the safe harbors. HUD issued a Final Review of the IBC 2006, which outlines the way the safe harbors are to be used. The following is an excerpt from this document:

[T]he Department believes that the technical criteria of the 2003 ICC/ANSI A117.1 are consistent with the Act and constitute a safe harbor when used together with the Act, HUD's regulations and the Guidelines for the scoping requirements. Similarly, the technical criteria of the 2003 ICC/ANSI A117.1 constitute a safe harbor when used together with one of the other HUD-recognized safe harbors that provide scoping requirements. ANSI A117.1 is a technical standard on how to make buildings, elements or spaces accessible. Since it lacks specific details on scoping requirements, it is necessary to consult a safe harbor document that provides scoping information.

Therefore, the accessible design and construction technical requirements, as stated in ANSI 2003, will be used to assess compliance with the FHA and ICRA. Similarly, the IBC 2006 will be used to assess compliance with the scoping requirements of the FHA and ICRA.

Following is the assessment of the reported deficiencies, based on the scoping requirements of IBC 2006 and the technical requirements of ANSI 2003:

1) Jerry's Homes maintains it is only responsible for the physical condition of the subject property at the time the construction was completed, but not for the post-construction maintenance. Therefore, Jerry's Homes argues it is not responsible for correcting the cross slope of the sidewalk west of the northwest walkway because it claims the sidewalk had a cross slope of 2% or less at the time initial construction was finished, and only increased to higher than 2% because of the thermal frost after a harsh winter.

However, when asked if the current owner bears responsibility for correcting weather or other post-construction events causing deficiencies, Cheryl Kent, Special Advisor for Disability Policy for HUD, stated, "Yes." In an email to ICRC Investigators, sent July 7, 2014, Ms. Kent stated:

In answer to your question, please see the HUD/DOJ Joint Statement Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings under the Fair Housing Act, Question and Answer #21, copy attached. The builder, and others typically involved in the design and construction of

covered multifamily dwellings, must ensure the building is built in compliance with the law. Once the builder has relinquished legal ownership, then Q&A #21 would apply as it refers to the original and subsequent owners. A builder would, of course, still be liable for any failure to design and construct covered multifamily dwellings in compliance with the law.

Similarly, Amber Fagan, Project Director for Fair Housing Accessibility First, an organization contracted by HUD to provide support in interpreting and applying the accessibility requirements of the FHA, stated the following in an email, sent July 30, 2014, to ICRC Investigators:

This appears to have been addressed by the DOJ/HUD Joint Statement on Design and Construction, released April 2013:

[Quote of Question and Answer #21 found in the cited DOJ/HUD Joint Statement.]

While this question is in the context of "mak[ing] subsequent changes," FHAF's [Fair Housing Accessibility First's] legal specialist believes it is hard to interpret the answer to this question in any way other than owners of a covered development (original or subsequent) must maintain the features to ensure continued compliance with the FHA requirements. This would include sloping and abrupt level requirements on accessible routes.

As stated in the Joint Statement of HUD and the United States Department of Justice (DOJ), original and future owners of covered multifamily dwellings are responsible for maintaining the property in compliance with the accessibility requirements of the FHA.

Jerry's Homes owned the subject property on June 11, 2013, the date of the test. Therefore, Jerry's Homes is responsible for maintaining the sidewalk slopes within the required parameters regardless of the effects of any environmental factors. Therefore, the sidewalk section west of the northwest walkway, and any other noncompliant sidewalk sections, must be restored to original state, i.e., meet the slope requirements of the FHA and ICRA.

Otherwise, ICRC concurs with Jerry's Homes' proposal to remove and redo the entranceway north of the dumpster, as well as the access aisle west of the northwest walkway, to bring the cross and running slopes for these areas within the required parameters. ICRC also concurs with Jerry's Homes' proposal to

install handrails along both sides of the northwest walkway where the running slope has values between 5% and 8.33%.

2) ICRC concurs with Jerry's Homes' proposal to make no changes to the sidewalk section south of the dumpster so long as the slopes for the path approaching from the north are corrected to bring them into compliance with the required parameters.

3) ICRC concurs with Jerry's Homes' proposal to install detectable warning pavers at all curb cutout (ramp) locations.

4) ICRC concurs with Jerry's Homes' proposal to install a new ramp at the sidewalk curb located to the southeast of the mailbox kiosk so long as the new ramp has detectable warning pavers.

5) Jerry's Homes maintains the absence of discernible parking lines is due to environmental factors, which is not its responsibility because it is a maintenance issue and not a construction deficiency. However, as previously stated in item #1 in the current section, current and future owners of covered properties are responsible for maintaining properties in compliance with the accessibility requirements of the FHA and ICRA. Therefore, as required by Section 4.1.2 of the ADAAG, paint lines for the parking spaces reserved for persons with disabilities and the adjacent access aisles must be restriped.

6) In a letter, dated May 20, 2008, Lynn Grosso, Director of the Office of Enforcement for HUD, informed Maria Infanger, USPS Attorney, that the FHA preempts USPS regulations as they relate to the accessibility of mailboxes. The letter reads:

The Department of Justice has entered into a number of consent decrees which have required the developer to change the height of mailboxes serving covered multifamily dwellings. We have received reports from developers that their efforts to provide mailboxes that comply with the Act have been met with resistance from the U.S. Postal Service because compliance with the prescribed reach ranges [either the 48 or 54-inch height] may result in a greater number of postal units that have to be opened by the mail carrier.

It is our longstanding policy that when there are two sets of requirements which both address accessibility, the developer of the housing subject to both requirements must comply with both, which usually means meeting the stricter standard. In this case, that would mean that any builder or developer of covered multifamily housing would have to comply with the [Fair Housing] Act's requirements even if the Postal Service requirements are more liberal.

As indicated in the above quote, other builders who have installed mailbox kiosks with mailboxes too high have been directed by the DOJ to modify the kiosks to make the required mailboxes reachable, regardless of USPS regulations. Additionally, Don Irwin, Mechanical Engineer for USPS, stated in an email, sent May 14, 2014, to Cheryl Kent from HUD, that there is nothing in USPS regulations that would prevent a builder from installing mailbox kiosks that meet ANSI's reachability requirements. Finally, Cheryl Cavanaugh, Paralegal Specialist for the USPS Law Department – Western Area, stated in an email to ICRC Investigators, sent August 25, 2014, that the builder needs only to obtain authorization for variance from the postmaster to modify or decrease the height to 54 inches or less for the keyholes at mailboxes for first-floor unit tenants. Therefore, Jerry's Homes must adhere to the requirements of the FHA and ICRA for the reachability of mailboxes.

- 7) ICRC concurs with Jerry's Homes' proposal to replace the front door twist-style knobs with handle-style knobs.
- 8) ICRC concurs with Jerry's Homes' proposal to decrease the exterior threshold height at the porch entrance to the units exceeding the 4-inch height requirement.
- 9) ICRC concurs with Jerry's Homes' proposal to lower thermostat controls with a height greater than the 48-inch maximum.
- 10) ICRC concurs with Jerry's Homes' proposal to move the switches that control the light above the kitchen sink and the garbage disposal so that they will be at least 36 inches from the corner. ICRC also concurs with Jerry's Homes' contention that there are existing, alternative outlets within all three units that meet FHADM requirements.
- 11) ICRC concurs with Jerry's Homes' proposal to move kitchen islands to increase the distance between each island and the opposing counter to 40 inches or greater.

12) ICRC concurs with Jerry's Homes' proposal to modify the bathrooms sinks to make them removable, which will include finishing the flooring and walls underneath and behind the cabinets.

13) ICRC concurs with Jerry's Homes' proposal to move the towel bars in the bathroom to a maximum height of 46 inches at locations above the toilet and 48 inches at the other locations without obstructions.

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with the ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

1. Jerry's Homes agrees there shall be no discrimination, harassment, or retaliation of any kind against any person for filing a charge under the ICRA; or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden under the ICRA.

2. Jerry's Homes agrees to refrain from committing any act of discrimination in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities on the basis of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status, in violation of the ICRA.

3. Jerry's Homes acknowledges the FHA and ICRA make it unlawful to discriminate in the sale or rental of a dwelling, or otherwise make unavailable or deny a dwelling, to a buyer or renter on the basis of disability. 42 U.S.C. 3604(f)(1); Iowa Code § 216.8A(3)(a).

4. Jerry's Homes acknowledges the FHA and ICRA make it unlawful to discriminate in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling on the basis of disability. 42 U.S.C. 3604(f)(2)(a) and Iowa Code § 216.8A(3)(b)(1)

5. Jerry's Homes acknowledges the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford person with a disability an equal opportunity to use and enjoy a dwelling. 42 U.S.C. 3604(f)(3)(b); Iowa Code § 216.8A(3)(c)(2).

6. Jerry's Homes acknowledges as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in a building consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216.8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the "Final Fair Housing Accessibility Guidelines." 24 C.F.R. Part 100.200 et seq.; 56 Fed. Reg. 9,472. In the "Guidelines," HUD presented the seven specific requirements as:

1. Accessible building entrance on an accessible route.
2. Accessible and usable public and common areas.
3. Usable doors.
4. Accessible route into and through the covered dwelling unit.
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
6. Reinforced walls for grab bars.
7. Usable kitchens and bathrooms.

Voluntary and Full Settlement

7. The parties acknowledge this Predetermination Settlement Agreement (hereinafter referred to as the Agreement) is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.

8. The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

9. The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of the Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

10. Jerry's Homes agrees the ICRC may review compliance with this Agreement. And as part of such review, Jerry's Homes agrees the ICRC may examine witnesses, collect documents, or require written reports.

Release

11. Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with the ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Disclosure

12. Because, pursuant to Iowa Code §216.15A(2)(d), the ICRC has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in

housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa's Public Records Law, Iowa Code Chapter 22. See Iowa Code §22.13.

Required Modifications or Retrofits

13. Jerry's Homes agrees to make the following modifications or retrofits to the subject property:

Accessible and Usable Public and Common Use Areas – Sidewalk Section adjacent to the west of the northwest walkway at the inspected building

(a) The parties agree the cross slope of the sidewalk section adjacent to the west of the northwest walkway of the inspected building, as highlighted in Figure 1A of Appendix A, exceeds the 2% maximum cross-slope established in ANSI A117.1 2003.

(a) Jerry's Homes agrees it will remove and replace the existing sidewalk section described above to a measurement at or below a running slope of 5% and at or below a cross slope of 2%, in compliance with the FHA and ICRA, and as required by ANSI A117.1 2003.

Accessible and Usable Public and Common Use Areas – Northwest Walkway at the inspected building

(a) The parties agree the running slope of the sidewalk section at the northwest walkway of the inspected building, as highlighted in Figure 1B of Appendix A, exceeds the 5% maximum running slope but is less than 8.33% as established by ANSI A117.1 2003.

(b) Jerry's Homes agrees it will install a handrail on each side of the northwest walkway leading to the inspected building in compliance with the FHA and ICRA, as required in Section 505 of ANSI A117.1 2003.

Accessible and Usable Public and Common Use Areas – Entranceway to the dumpster of the inspected building

(b) The parties agree the running slope of the entranceway north of the dumpster for the inspected building, as shown in Figure 1C of Appendix A, exceeds the 8.33% maximum running slope established in ANSI A117.1 2003.

(c) Jerry's Homes agrees it will remove and replace the existing sidewalk section described above, to a measurement at or below a running slope of 5% and at or below a cross slope of 2%, in compliance with the FHA and ICRA, as required in ANSI A117.1 2003.

Jerry's Homes agrees it will inspect the approach from the street for each of the dumpsters at the other subject property buildings. If the running slope or cross-slope values exceed the maximum slopes allowed, Jerry's Homes agrees it will perform the same modification as at the dumpster for the inspected building.

Accessible and Usable Public and Common Use Areas – Detectable Warnings

(a) Parties agree there are no detectable warnings at the ramp locations along the sidewalk paths adjacent to all five of the subject property buildings, as required in Section 4.29 of the ADAAG.

(b) Jerry's Homes agrees to install detectable warning pavers in the ramps at all five of the subject property buildings, as required by the ADAAG.

Accessible and Usable Public and Common Use Areas – Curb along direct path from northwest walkway to mailbox kiosk for the inspected building

(a) The parties agree there is a 2-inch high curb along the most direct path from the northwest walkway to the mailbox kiosk for the inspected building, which causes tenants who utilize a wheelchair to use a significantly longer path, in violation of the requirements for an accessible route in ANSI A117.1 2003. See Figure 1D in Appendix A.

(b) Jerry's Homes agrees it will install a new ramp at the curb location described in the last paragraph, and at the locations in the most direct path from each of the other four subject property buildings to their respective mailbox kiosks, in compliance with the FHA and ICRA, as required by ANSI A117.1 2003.

Accessible and Usable Public and Common Use Areas – Parking

(a) The parties agree there are no discernible lines to ascertain whether the parking spaces for persons with disabilities or access aisles adjacent to the inspected building meet the minimum width requirements, as established by Sections 4.1.2 and 4.6.3 of the ADAAG. See Figure 1E in Appendix A.

(b) Jerry's Homes agrees to restripe the parking spaces reserved for persons with disabilities and the access aisles adjacent to the inspected building to meet the minimum width requirements of the ADAAG, as referenced above. The current signage for all parking spaces reserved for persons with disabilities will be kept, which includes the International Symbol of Accessibility as described in the ADAAG, and is available online at: <http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/adaag#4.30.7>. Jerry's Homes agrees to inspect the parking spaces reserved for persons with disabilities and access aisles that are adjacent to the other subject property buildings, and restripe any parking spaces or access aisles without discernible lines.

Accessible and Usable Public and Common Use Areas – Mailboxes

(a) The parties agree the mailboxes for tenants in all ground-floor units for each building at the subject property exceed the maximum reach range of 54 inches for a person who requires the use of a wheelchair to make a parallel approach, as specified in ANSI A117.1 2003.

(b) Jerry's Homes agrees it will either rearrange the mailbox numbers at each mailbox kiosk for the five subject property buildings to provide all ground-floor tenants with mailboxes that do not exceed the height of 54 inches, as required by ANSI A117.1 2003, or install new mailbox kiosks at each of the five subject property buildings, so that none of the mailboxes exceed the maximum height of 54 inches.

Usable Doors – Front Door Hardware

(a) The parties agree the door-opening hardware for the front doors to Units 9 and 14 have knobs in violation of ANSI A117.1 2003.

(b) Jerry's Homes agrees it will replace the twist-style knobs in all front doors of ground-floor units in each of the five buildings at the subject property with handle-style knobs, which do not require tight grasping or twisting, as required by ANSI A117.1 2003.

Usable Doors – Threshold for Secondary Door

(a) The parties agree the threshold height onto the concrete porch for Units 9 and 13 in the inspected building exceeds four inches, the maximum height allowed for exterior thresholds onto impervious exterior surfaces by ANSI A117.1 2003.

(b) Jerry's Homes agrees it will reduce the exterior threshold height at the porch entrance for all ground units at the subject property that exceed the above outlined requirement by pouring additional concrete or redoing the concrete porch, as required by ANSI A117.1 2003.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in

Accessible Locations - Thermostats

(a) The parties agree the height for the thermostat controls in Units 9 and 14 exceed the maximum height of 48 inches, as allowed by ANSI A117.1 2003.

(b) Jerry's Homes agrees it will lower the thermostat controls in all ground-floor units at the subject property to a height no greater than 48 inches, as required by ANSI A117.1 2003.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in

Accessible Locations – Light/Garbage Disposal Switch

(a) The parties agree the switches that control the light above the kitchen sink and the garbage disposal, located above the kitchen counter surface and below the cupboards, in Units 9 and 14 are less than 36 inches from the corner in violation of the FHADM.

(b) Jerry's Homes agrees it will move the above-described switches in all ground-floor units at the subject property that are currently less than 36 inches from the corner so they will be no closer than 36 inches from the corner, as required by the FHADM.

Usable Kitchens – Kitchen Islands

(a) The parties agree the clearance space between the kitchen island and the opposing base cabinets, countertops, appliances, and walls in Unit 14, a two-bedroom unit, is less than the 40-inch minimum clearance space required by ANSI A117.1 2003.

(b) Jerry's Homes agrees to move the kitchen island in the two-bedroom ground-floor units the necessary distance to comply with the minimum allowable clearance space of 40 inches, as required in ANSI A117.1 2003.

Usable bathrooms – Bathroom Sinks

(a) The parties agree (1) the flooring underneath the bathroom sink cabinets in the second bathroom of Unit 14 in the inspected building, a two-bedroom unit, is not finished, which is a requirement for cabinets to be deemed removable, and does not meet the requirement for a forward approach by a person utilizing a wheelchair, as required by ANSI A117. 2003; and (2) the midline of the sink in this bathroom is less than the minimum 24 inches for a parallel approach by a person who requires the use of a wheelchair, as required by ANSI A117. 2003.

(b) Jerry's Homes agrees it will remove and replace the existing vanity and finish the flooring in the second bathroom of Unit 14 and in the remaining two-bedroom ground-floor units of the subject property buildings to allow for a forward approach by a person who requires the use of a wheelchair. If the vanity needs to be removed, the knee-space underneath the bathroom sink will have the required dimensions, as required by ANSI A117.1 2003. See Figure 1F in Appendix A.

Usable bathrooms – Bathroom Towel Bars

(a) The parties agree the height of the towel bars in all bathrooms in the ground-floor units at the subject property exceed the reachable height of 46 inches for those located above the toilet and 48 inches for towel bars without an obstruction, as outlined in ANSI A117.1 2003.

(b) Jerry's Homes agrees it will adjust the height of the bathroom towel racks in all ground-floor units at the subject property as outlined above, as required by ANSI A117.1 2003.

Required Timelines for Completion of Modifications or Retrofits

14. Jerry's Homes agrees it will allow each tenant to make the decision whether the above-required modifications or retrofits are made during his/her tenancy. Jerry's Homes agrees those tenants who make that decision will be allowed to remain in their units while the renovations are being completed so long as their continued stay is safe and does not unduly disrupt the renovation work. If their continued stay is not safe or unduly interferes with renovation work, Jerry's Homes agrees to move the affected tenants to another suitable unit on a temporary basis until the unit is made safe or the renovation work is completed. Jerry's Homes agrees to pay all costs generated by such move.

15. Jerry's Homes agrees to make the above-required modifications or retrofits to the common use and public areas of the subject property – sidewalk section adjacent to west of northwest walkway, northwest walkway sidewalk section, entranceway to the dumpster, detectable warnings, ramp at curb along direct path from the northwest walkway to mailbox kiosk, parking line markings, and mailbox kiosks – within 120 days of receiving a Closing Letter from the ICRC.

16. Jerry's Homes agrees to make the above-required modifications or retrofits as each of the subject units becomes vacant. Jerry's Homes agrees to make the required modifications or retrofits before the unit is rented again.

Mandatory Reporting Requirements

17. Jerry's Homes agrees to notify the Commission when it has completed the required modifications or retrofits for each and every subject unit and common use area. Such notification shall be made within 30 days of completion. These required notifications to the Commission will continue until all required modifications or retrofits have been completed in all 40 units, listed in attached Appendix B.

18. Jerry's Homes agrees, as the required modifications or retrofits are made to a particular unit or common area, the Commission may then inspect such unit or common area, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection, to Jerry's Homes.

If the inspection indicates outstanding deficiencies, Jerry's Homes shall correct all such deficiencies within a reasonable period of time as determined by the Commission, and shall pay a reasonable fee for another inspection by Commission staff or pay for an inspection by a third party inspector, approved by the Commission.

19. The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the subject property as specified in this Agreement, unless Jerry's Homes have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required modifications or retrofits as specified in this Agreement.

20. Within 30 days of receiving a closing letter from the Commission, Jerry's Homes agrees to provide a written statement to the Commission, to the attention of Don Grove, Supervisor of Housing Investigations that specifies how each of the above-required modifications or retrofits will be corrected.

21. Jerry's Homes agrees it will inspect all "covered multifamily dwellings," as defined by Iowa Code §§216.2(4) and 216.8A(3)(c)(3), that it developed, built, or currently owns or manages – individually or collectively – within the state of Iowa, with a first Certificate of Occupancy issued on or after January 2, 2014, for compliance with the design and construction accessibility requirements in the ICRA and FHA.

Jerry's Homes agrees, for each of those covered multifamily dwellings, it will report to the Commission: (1) the property name and address, (2) the developer and builder's name(s) and address(es), (3) the owner and manager's name(s) and address(es), and (4) the date when the first dwelling unit was rented or sold. Jerry's Homes agrees to provide that report within 30 days of receiving a Closing Letter from the Commission.

Jerry's Homes also agrees, for each of those covered multifamily dwellings, it will report to the Commission within six (6) months of receiving a Closing Letter from the Commission whether its inspection(s) uncovered any deficiencies or violations of the FHA or ICRA (ANSI A117.1 2003). If its inspection(s) uncovered any deficiencies or violations, Jerry's Homes agrees to report and describe each deficiency or violation in detail, and propose a plan with timelines to make all necessary modifications or retrofits.

[Please go to next page for the signature page]

Jerry's Homes, Inc.

Date

RESPONDENT

Angela Williams

Date

COMPLAINANT

Beth Townsend, Director

Date

IOWA CIVIL RIGHTS COMMISSION
